



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

arises upon shipment which survives whatever the outcome of the voyage. *National, etc. Co. v. International Paper Co.*, 241 Fed. 861. Revival of the lien, however, depends on the existence of a new contract, express or implied from the circumstances, to substitute the carriage effected for that originally agreed upon. *Caze & Richaud v. Baltimore Ins. Co.*, 7 Cranch (U. S.) 358; *St. Enoch Shipping Co. v. Phosphate Mining Co.*, *supra*. As no such agreement can be implied in the principal case, the result seems sound.

CARRIERS — PERSONAL INJURIES TO PASSENGERS — TEMPORARY ABSENCE AS AFFECTING STATUS OF PASSENGERS — DUTY OF CARE. — Plaintiff, a passenger on defendant's train, alighted at a way station to obtain breakfast. Upon attempting to reënter her car, she fell and was injured. The car had not been brought opposite the station platform. *Held*, that a passenger while off the train is owed only reasonable care, although entitled to the highest degree of care while riding, and that plaintiff may recover. *Sellers v. Southern Pacific R. Co.*, 166 Pac. 599 (Cal.).

Persons who alight from the conveyance of a carrier for a temporary and reasonable purpose are frequently said to retain their status as passengers. *Alabama, etc. R. Co. v. Coggins*, 88 Fed. 455; *Tompkins v. Boston El. R. Co.*, 201 Mass. 114, 87 N. E. 488. See 2 HUTCHINSON, CARRIERS, § 1012. The distinction is often drawn, as in the principal case, between the degree of care owed by a carrier to its passengers in course of transportation, and that owed to passengers while off the conveyance. *Kelly v. Manhattan R. Co.*, 112 N. Y. 443, 20 N. E. 383; *Moreland v. Boston, etc. R. Co.*, 141 Mass. 31, 6 N. E. 225. Occasionally a carrier has been held to the highest degree of care in all its relations with passengers. *Brackett v. Southern R. Co.*, 88 S. C. 447, 70 S. E. 1026. See *Atchison, etc. R. Co. v. Shean*, 18 Colo. 368, 371, 33 Pac. 108, 109. Opposing these are authoritative statements pronouncing degrees of care unscientific and impractical. *Raymond v. Portland R. Co.*, 100 Me. 529, 62 Atl. 602; *Milwaukee, etc. R. Co. v. Arms*, 91 U. S. 489. See 6 ALB. L. J. 313, 314; 18 HARV. L. REV. 536. The care exacted in any situation should be expressed as that care which a reasonable person would use under those circumstances. The amount of effort required to attain this standard will of course vary with the circumstances, but the result is always reasonable care. The distinction, which the court in the principal case attempts to draw, therefore, seems unsound. It would further seem that the category of passengers that the courts attempt to create in these cases is an unnecessary one, and that the result should be reached on pure tort principles. Where the injury is the result of a condition of the premises, and in some jurisdictions where it is the result of negligent management of an active force, this would involve the question of whether the plaintiff is an invitee or a mere licensee.

CONFLICTS OF LAWS — REMEDIES — RIGHTS OF ACTION — RIGHT OF A CONSIGNEE TO RECOVER FOR MENTAL ANGUISH CAUSED BY CARRIER'S NEGLIGENCE. — The corpse of plaintiff's brother was shipped from Kansas consigned to her in Alabama. Through the negligence of defendant carrier, rain was allowed to fall on it at the place of delivery, and plaintiff sought damages for the mental anguish caused by this. *Held*, that she could not recover. *Deavors v. Southern Express Co.*, 76 So. (Ala.) 288.

The court goes on the theory that the injury resulted from the breach of a contract for interstate shipment, governed by federal laws, and that damages for mental anguish are not recoverable for such a breach. *Western Union Telegraph Co. v. Hawkins*, 73 So. 973; *Western Union Telegraph Co. v. Brown*, 234 U. S. 542, 547. But there is no federal rule governing the elements of damages, and no federal common law, so the state law remains in force. *Western Union Telegraph Co. v. Call Publishing Co.*, 181 U. S. 92. See 30

HARV. L. REV. 391. A person having no property right in the thing shipped may sue on the contract of shipment if he is the person with whom or for whose benefit the contract was made. *Gratiot St. Warehouse Co. v. Missouri, K. & T. R. Co.*, 124 Mo. App. 545, 102 S. W. 11. But a suit in tort is allowed to one having a general or special property right in the thing shipped even though he be a stranger to the contract. *Schlosser v. Great Northern R. Co.*, 20 N. D. 406, 127 N. W. 502. The plaintiff has at least a "quasi-property right." *Larson v. Chase*, 47 Minn. 307, 50 N. W. 238; *Miner v. Canadian Pacific R. Co.*, 15 West. L. Rep. 161. See 28 HARV. L. REV. 322. Such an action is controlled by the law of the place where the cause of action arose, and in Alabama damages for mental anguish are recoverable. *Birmingham Transfer & Traf. Co. v. Still*, 7 Ala. App. 556, 61 So. 611.

CONSTITUTIONAL LAW — CONSTRUCTION, OPERATION, AND ENFORCEMENT OF CONSTITUTIONS — POWER OF ENGLISH COURT TO DECLARE AN ACT OF PARLIAMENT UNCONSTITUTIONAL. — The Defense of the Realm Consolidation Act empowered the King in Council to "issue regulations for securing the public safety and the defense of the realm," 5 GEO. V. c. 8. A regulation passed under this general power empowered the secretary of state to order the internment of any person "of hostile origin or association" where on the opinion of a competent military authority it appears expedient to do so. Reg. 146. Under this regulation a naturalized German was interned. He appealed on the ground that the regulation was unauthorized by the act and thus *ultra vires*. *Held* (Lord Shaw of Dunfermline, dissenting) that the regulation was authorized by the act. *Rex v. Halliday*, [1917] A. C. 261.

For a discussion of this case, see NOTES, p. 296.

CONSTITUTIONAL LAW — EQUAL PROTECTION OF THE LAWS — ACTION TO ENJOIN THE ENFORCEMENT OF TAXATION UNDER AN UNEQUAL ASSESSMENT. — The Constitution of Kentucky provided for the uniform taxation of all property, both corporate and individual, according to its fair cash value. Taxable property in general, however, was assessed at sixty per cent of actual values, while the defendants, constituting the Board of Valuation and Assessment, systematically and intentionally assessed the property of the plaintiff corporation at seventy-five per cent of its actual value. There being no diverse citizenship the jurisdiction of the federal courts was invoked under the equal protection provision of the Fourteenth Amendment. *Held*, that the acts complained of violated the Kentucky Constitution, and that an injunction should be granted. *Greene, Auditor, v. Louisville, etc. R. Co.*, 1917, U. S. Sup. Ct. Off. § 617.

The requirement of the Fourteenth Amendment that the states shall not deny the equal protection of the laws to any persons extends to the levying of taxes. See WILLOUGHBY, CONSTITUTIONAL LAW OF THE UNITED STATES, § 270. A sporadic case of inequality will not constitute a violation of the provision. *Supervisors v. Stanley*, 105 U. S. 305. See *Coulter v. Louisville, etc. R. Co.*, 196 U. S. 599, 609. But if the discrimination is persistent and systematic, though not sanctioned by the courts of the state, it will be reviewable in the federal courts. *Raymond v. Chicago Traction Co.*, 207 U. S. 20; *Home Tel. & Tel. Co. v. Los Angeles*, 227 U. S. 278. Because the sovereign may not be sued, the suit will be against the administrative officials. See GUTHRIE, THE FOURTEENTH AMENDMENT, 176. For the purposes of jurisdiction under the Fourteenth Amendment, however, their acts are regarded as the acts of the state, whose agents they are. *Chicago, etc. R. v. Chicago*, 166 U. S. 226; *Raymond v. Chicago Traction Co.*, *supra*. Whether the state does not thus become the actual party defendant must be determined by a consideration of the entire record. *Ex parte Young*, 209 U. S. 123. For unless the nominal defendants could be held liable independently and individually the suit could not be maintained.